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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,452

03/28/2007

Graham Joseph Peck

430500-12

6575

27162

7590

03/03/2009

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER

WEN, SHARON X

ART UNIT

PAPER NUMBER

1644

MAIL DATE

DELIVERY MODE

03/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10582452	3/28/2007	PECK ET AL.	430500-12

CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

EXAMINER

SHARON WEN

ART UNIT	PAPER
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1644	20090226
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DATE MAILED:

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Commissioner for Patents

Applicant's amendment, filed 12/04/2008, has been entered.
Claims 2 and 3 have been amended.
Claims 13-14 have been added.
Claims 2-3 and 13-14 are currently pending.
Claims 1 and 4-12 have been canceled.

Newly added claims 13 and 14 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Newly added claims 13 and 14 are drawn to a method for treating pancreatitis, wherein pancreatitis is a distinct species of disease from the originally elected species, inflammatory gastrointestinal disease for reasons stated in the Requirement for Restriction/Election, mailed 05/13/2008.

Applicant's election of the species, gastrointestinal disease, in the reply filed on 07/14/2008 was treated as an election without traverse because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement (MPEP § 818.03(a)).

Furthermore, it is noted that Applicant acknowledged that pancreatitis is a distinct species from inflammatory gastrointestinal disease, in Applicant's Arguments/Remarks, filed 12/04/2008 (see page 4, lines 7-8).

Since applicant has received an action on the merits for the originally presented species of disease, applicant cannot file an amendment to obtain examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145.

The amendment filed on 12/04/2008 canceling all claims drawn to the elected species and presenting only claims drawn to a non-elected species is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected species because of the reasons above.

Since applicant has received an action on the merits for the originally presented invention, applicant's response is considered non-

responsive. Since the amendment appears to be a bona fide attempt to be a reply (37 CFR § 1.135(c)), applicant is given a TIME PERIOD of ONE (1) MONTH from the mailing date of this notice within which to re-submit the corrected section which complies with 37 CFR § 1.121 in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHARON WEN whose telephone number is (571)270-3064. The examiner can normally be reached on Monday-Thursday, 8:30AM-6:00PM, ALT. Friday, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen O'Hara can be reached on (571)272-0878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sharon Wen/
Examiner, Art Unit 1644
February 26, 2009

/Phillip Gambel/
Primary Examiner, Art Unit 1644